

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
Pine Bluff DIVISION

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

OCT 03 2019

JAMES W. McCORMACK, CLERK
By: [Signature] DEP CLERK

Johnathan Smith

(Name of plaintiff or plaintiffs)

v.

CIVIL ACTION NO. 5:19-cv-317-KGB
(case number to be supplied by the assignment clerk)

Rice Land Foods

This case assigned to District Judge Baker
and to Magistrate Judge Volpe

(Name of defendant or defendants)

COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on the Court by 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff, Johnathan Smith, is a
(name of plaintiff)
citizen of the United States and resides at 6209 Oden Drive,
(street address)
Pine Bluff, Jefferson, Arkansas, 71603,
(city) (county) (state) (ZIP)
870-329-9650.
(telephone)

3. Defendant, Rice Land Foods, lives at, or its
(name of defendant)
business is located at 4011 S Grand Ave, Stuttgart,
(street address) (city)
Arkansas, AR, 72160.
(county) (state) (ZIP)

4. Plaintiff sought employment from the defendant or was employed by the

as follows: ^{had} ~~I~~ Johathan Smith ~~had~~ applied for a maintenance job and received an interview, but ~~was~~ was not given the job because of my race, and a white man was given the job over me with no experience, I went to Rick and HR with the matter and was told that the matter would be looked into, few days later, I could train for the position but will not be given the pay for the position, which has never happen within company, so I refused not to due to equal pay act, then I was told by supervisor we just don't want to hire you for job I asked why and was told I don't have to answer your questions.

10. The acts set forth in paragraph 9 of this complaint:

- (a) _____ are still being committed by defendant.
- (b) _____ are no longer being committed by defendant.
- (c) ☒ _____ may still be being committed by defendant.

11. Plaintiff attaches to this complaint a copy of the charges filed with the Equal Employment Opportunity Commission which charges are submitted as a brief statement of the facts supporting this complaint.

WHEREFORE, plaintiff prays that the Court grant the following relief to the plaintiff:

- (a) _____ Defendant be directed to employ plaintiff, and
- (b) _____ Defendant be directed to re-employ plaintiff, and
- (c) _____ Defendant be directed to promote plaintiff, and
- (d) ☒ Defendant be directed to ~~pay plaintiff~~ Pay Plaintiff for loss wages and pain and suffering

and that the Court grant such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.


SIGNATURE OF PLAINTIFF

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Johnathan M. Smith**
6209 Oden Drive
Pine Bluff, AR 71603

From: **Little Rock Area Office**
820 Louisiana
Suite 200
Little Rock, AR 72201

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

493-2019-00615**Ivonne A. Knutson,**
Investigator**(501) 324-5469**

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**


On behalf of the Commission

JUL 11 2019

Enclosures(s)

William A. Cash, Jr.,
Area Office Director

(Date Mailed)

cc:

Amber Bagley
Cross, Gunter, Witherspoon & Galchus
500 President Clinton Avenue
Suite 200
Little Rock, AR 72201

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 – not 12/1/10** – in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Little Rock Area Office

820 Louisiana St., Suite 200
Little Rock, AR 72201
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
FAX (501) 324-5991
Website: www.eeoc.gov

Johnathan M. Smith
6209 Oden Drive
Pine Bluff, AR 71603

Re: Johnathan M. Smith v. Riceland Foods
EEOC Charge No: 493-2019-00615

Dear Mr. Smith,

The enclosed Notice terminates the processing of your charge and gives notice of your right to sue within 90 days. A copy of the Respondent's position statement was sent to you via the portal. After receiving your response, all evidence collected during the investigation was thoroughly reviewed.

Complaint

You alleged that you were denied a promotion because of your race(black).

Evidence

The evidence shows that:

- The evidence is insufficient to show that race was a factor in non-selection for the position.
- A second position was open on a different shift.
- You were offered the opportunity to gain experience for the position but did not participate.

No further action will be taken by this office regarding your charge of discrimination. The Director's determination in this matter is enclosed. This determination concludes the processing of the charge by the EEOC but does not affect your right to sue on your own behalf. You may pursue the matter by filing in Federal District Court as explained in the Dismissal and Notice of Rights,

Sincerely,

Ivonne Knutson
Ivonne Knutson
Investigator

JUL 11 2019

Date

cc.